

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

AMERICAN CHEMICAL SOCIETY,

Plaintiff,

v.

GOOGLE INC.,

Defendant.

Case No. 1:04CV02131 RBW

CONSENT MOTION FOR EXTENSION OF TIME TO COMPLETE DISCOVERY

Plaintiff American Chemical Society (“ACS”) hereby moves this Court for an extension of time to complete discovery. In support thereof, ACS has filed an accompanying Memorandum of Law and states:


1. ACS has requested one prior extension of time to complete discovery. The Court granted this request.
2. The parties have engaged in settlement discussions but have now concluded that settlement is not possible at this time. The parties agree that time in addition to that set forth in the current schedule is necessary in order to complete discovery.
3. Accordingly, the parties jointly request that each deadline set in the current schedule be extended by approximately 120 days. The schedule, as modified, would become as follows:

Close of Fact Discovery:	5/31/06
Plaintiff’s Expert Reports Produced to Defendant:	7/3/06
Defendant’s Rebuttal Reports Produced to Plaintiff:	8/14/06
Close of Expert Discovery:	8/28/06
Pretrial Conference:	8/21/06

4. Counsel for Defendant Google Inc. consented to this Motion on December 14, 2005.

In consideration of the foregoing, ACS respectfully requests that the Court grant its Consent Motion for Extension of Time to Complete Discovery. The grounds for this Motion are more fully set forth in the accompanying Memorandum.

December 15, 2005



Roberta L. Horton (413577)
John P. Sheesley (482546)
ARNOLD & PORTER LLP
555 Twelfth Street, N.W.
Washington, DC 20004
Telephone: (202) 942-5000
Facsimile: (202) 942-5999
Counsel for Plaintiff American Chemical Society

CERTIFICATE OF SERVICE

This is to certify that on the 15th day of December 2005, a true and correct copy of the foregoing CONSENT MOTION FOR EXTENSION OF TIME TO COMPLETE DISCOVERY was served by first class mail upon:

Arnold P. Lutzker
Carl H. Settlemyer, III
LUTZKER, LUTZKER & SETTLEMYER LLP
1000 Vermont Avenue, N.W., Suite 450
Washington, DC 20005

Michael H. Page
Klaus H. Hamm
KEKER & VAN NEST LLP
710 Sansome Street
San Francisco, CA 94111-1704



Roberta L. Horton

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN CHEMICAL SOCIETY,

Plaintiff,

v.

GOOGLE INC.,

Defendant.

Case No. 1:04CV02131 RBW

**MEMORANDUM OF LAW IN SUPPORT OF CONSENT MOTION FOR EXTENSION OF
TIME TO COMPLETE DISCOVERY**

Plaintiff American Chemical Society (“ACS”) submits this memorandum of law in support of its Consent Motion for Extension of Time to Complete Discovery.

I. STATEMENT OF FACTS

1. On June 3, 2005, this Court entered a Scheduling Order that set this case as a Standard Track case.
2. On October 11, 2005, ACS filed a Consent Motion for Extension of Time to Complete Discovery because the parties were contemplating settlement and required more time for that process.
3. On October 12, 2005, the Court entered an Order granting the Consent Motion for Extension of Time to Complete Discovery and modifying the schedule.
4. ACS and Defendant Google Inc. (“Google”) have diligently conducted discovery activities to date. The parties have exchanged interrogatories, requests for production of documents, and responses.
5. ACS and Google have also engaged in settlement discussions, but the parties have now concluded that they will not be able to reach settlement at this time. ACS and Google agree

that time in addition to that set forth in the current schedule is necessary in order to complete discovery.

6. Counsel for Google consented to this Motion on December 14, 2005.

ARGUMENT

7. This Court requires good cause for motions for extension of time. *See* General Order and Guidelines for Civil Cases ¶5.

8. It is not uncommon for courts in this district to grant multiple extensions of time to accommodate the parties' settlement discussions. *See Blackman v. District of Columbia*, 277 F. Supp. 2d 89, 91 n.2 (D.D.C. 2003) (noting that the court granted numerous extensions of time while the parties worked towards a settlement agreement); *United States v. Intrados/Int'l Mgmt. Group*, 265 F. Supp. 2d 1, 5 n.6 (D.D.C. 2002) (noting that the court granted seven motions for extension of time because parties "were nearing settlement and needed more time to advance those settlement prospects").

9. Moreover, factors that commonly weigh against good cause for extending time - such as a lack of diligence on the part of the moving party or risk of prejudice to the nonmoving party - are not present in this case. *See Dag Enters., Inc. v. Exxon Mobil Corp.*, 226 F.R.D. 95, 105-108 (D.D.C. 2005) (holding plaintiffs did not establish good cause to extend discovery where plaintiffs did not diligently seek information at issue during time allowed). In this case, the parties have diligently pursued both discovery and settlement, and Google's consent to this motion allays any concern about prejudice to Google.

II. CONCLUSION

10. For the foregoing reasons, ACS respectfully requests that the Court grant its Consent Motion for Extension of Time to Complete Discovery.

December 15, 2005



Roberta L. Horton (413577)
John P. Sheesley (482546)
ARNOLD & PORTER LLP
555 Twelfth Street, N.W.
Washington, DC 20004
Telephone: (202) 942-5000
Facsimile: (202) 942-5999
Counsel for Plaintiff American Chemical Society

CERTIFICATE OF SERVICE

This is to certify that on the 15th day of December 2005, a true and correct copy of the foregoing MEMORANDUM OF LAW IN SUPPORT OF CONSENT MOTION FOR EXTENSION OF TIME TO COMPLETE DISCOVERY was served by first class mail upon:

Arnold P. Lutzker
Carl H. Settlemyer, III
LUTZKER, LUTZKER & SETTLEMYER LLP
1000 Vermont Avenue, N.W., Suite 450
Washington, DC 20005

Michael H. Page
Klaus H. Hamm
KEKER & VAN NEST LLP
710 Sansome Street
San Francisco, CA 94111-1704



Roberta L. Horton